

STATEMENT CLAIMING SMALL ENTITY STATUS
(37 CFR 1.27(a))-NONPROFIT ORGANIZATION



DOCKET NUMBER: 0399.2004-002

Applicant or Pattee: Roberto A. Gaxiola, Gerald R. Fink and Seth L. Alper
Application or Patent No.: 09/834,998
Filed or Issued: April 13, 2001
Title: Proton Transporters and Uses in Plants

COPY OF PAPERS
ORIGINALLY FILED

I hereby state that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF NONPROFIT ORGANIZATION Beth Israel Deaconess Medical Center, Inc.
ADDRESS OF NONPROFIT ORGANIZATION 330 Brookline Avenue
Boston, Massachusetts 02215

TYPE OF NONPROFIT ORGANIZATION:

[] UNIVERSITY OR OTHER INSTITUTION OF HIGHER EDUCATION
[X] TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 U.S.C.501(a) and 501(c)(3))
[] NONPROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA
(NAME OF STATE _____)
(CITATION OF STATUTE _____)
[] WOULD QUALIFY AS TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 U.S.C. 501(a) and 501(c)(3)) IF LOCATED IN THE UNITED STATES OF AMERICA
[] WOULD QUALIFY AS NONPROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA IF LOCATED IN THE UNITED STATES OF AMERICA
(NAME OF STATE _____)
(CITATION OF STATUTE _____)

I hereby state that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.27(a)(3) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in:

[] the specification filed herewith with title as listed above.
[X] the application identified above.
[] the patent identified above.

I hereby state that the rights under contract or law have been conveyed to and remain with the nonprofit organization regarding the above identified invention. If the rights held by the nonprofit organization are not exclusive, each individual, concern, or organization having rights in the invention must file separate statements as to their status as small entities. No rights to the invention are held by any person who would not qualify as a person under 37 CFR 1.27(a)(1) or by any concern which would not qualify as a small business concern under 37 CFR 1.27(a)(2) or a nonprofit organization under 37 CFR 1.27(a)(3).

Each person, concern, or organization having any rights in the invention is listed below:

[] no such person, concern, or organization exists.
[X] each such person, concern, or organization is listed below.

Whitehead Institute for Biomedical Research
Nine Cambridge Center
Cambridge, Massachusetts 02142

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.27(g)(2))

NAME OF PERSON SIGNING Dr. Barry Eisenstein

TITLE IN ORGANIZATION OF PERSON SIGNING Vice President of Science and Technology

ADDRESS OF PERSON SIGNING Beth Israel Deaconess Medical Center, Inc., 330 Brookline Avenue, Boston, Massachusetts 02215

SIGNATURE _____ DATE _____



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Declaration for Patent Application

As a named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated next to my name;

I believe I am the original, first and sole inventor (if only one name is listed) or an original, first and joint inventor (if plural names are listed in the signatory page(s) commencing at page 3 hereof) of the subject matter which is claimed and for which a patent is sought on the invention entitled

Proton Transporters and Uses in Plants

the specification of which (check one)

[] is attached hereto.
 was filed on April 13, 2001 as United States Application

Number or PCT International Application No. 09/834,998

and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. §1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed:

| <u>Prior Foreign Application(s)</u> | <u>Priority Not Claimed</u> | <u>Certified Copy Filed?</u> |
|-------------------------------------|-------------------------------------|----------------------------------|
| <u>YES</u> | <u>NO</u> | |
| (Number) | (Country) | (Day/Month/Year filed) |
| | | |
| (Number) | (Country) | (Day/Month/Year filed) |
| | | |
| (Number) | (Country) | (Day/Month/Year filed) |
| | | |

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below.

| | |
|---|---|
| <u>60/164,808</u> (Application Number) | <u>November 10, 1999</u> (Filing Date) |
| | |

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information known by me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

| | | |
|--|----------------------------------|---|
| 09/644,039 (Application Serial No.) | August 22, 2000 (Filing date) | Abandoned (Status: patented, pending, abandoned) |
| (Application Serial No.) | (Filing date) | (Status: patented, pending, abandoned) |
| (Application Serial No.) | (Filing date) | (Status: patented, pending, abandoned) |
| (Application Serial No.) | (Filing date) | (Status: patented, pending, abandoned) |

As a named inventor, I hereby appoint the attorneys and/or agents associated with
Hamilton, Brook, Smith & Reynolds, P.C., Two Militia Drive, Lexington, Massachusetts 02421-4799
Customer No. 21005,

and Patricia Granahan, Esq., Registration No. 32,227, of Whitehead Institute for Biomedical Research,
Nine Cambridge Center, Cambridge, Massachusetts 02142,

to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Please send correspondence to:

Customer No. 21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
Two Militia Drive
Lexington, MA 02421-4799

or

[] Address as follows:

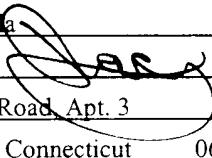
Direct telephone calls to: Anne J. Collins, Esq. Telephone No.: 781-861-6240

Direct facsimiles to: Anne J. Collins, Esq. Facsimile No.: 781-861-9540

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole

or first inventor Roberto A. Gaxiola

Inventor's Signature 

Date 10/09/01

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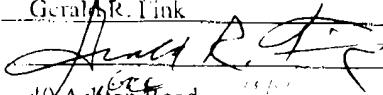
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-3-

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